

NEW YORK STATE SUPREME COURT
ERIE COUNTY

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ALBERT RINOW,

Plaintiff,

-against-

DIOCESE OF BUFFALO, ST. BONAVENTURE
CATHOLIC CHURCH, AND ST. MARY'S CATHOLIC
CHURCH AND SCHOOL,

Defendants.

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Index No.: _____

Date Filed: November 6, 2019

SUMMONS

Plaintiff designates Erie County
as the place of trial.

The basis of venue is one
defendant's residence.

Child Victims Act Proceeding
22 NYCRR 202.72

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiff's attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: November 6, 2019

Respectfully Yours,

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By  _____

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NEW YORK STATE SUPREME COURT
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DIOCESE OF BUFFALO, ST. BONAVENTURE
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COMPLAINT

Child Victims Act Proceeding
22 NYCRR 202.72

Plaintiff Albert Rinow, by and through his attorneys, the Marsh Law Firm PLLC and Pfau Cochran Vertetis Amala PLLC, respectfully alleges for his complaint the following:

I. INTRODUCTION

1. The Diocese of Buffalo (the "Diocese") knew for decades that its priests, clergy, teachers, school administrators, employees, and volunteers were using their positions within the Diocese to groom and to sexually abuse children. Despite that knowledge, the Diocese failed to take reasonable steps to protect children from being sexually abused and actively concealed the abuse.

2. Since 2018, following decades of denial and cover-up, the Diocese of Buffalo began releasing the names of priests who were accused of sexually abusing children. While the Diocese of Buffalo has listed at least 80 priests with substantiated claims of sexual abuse of a minor, it has been reported that there are well over a 100 clergy in the Diocese of Buffalo who have faced allegations of sexually abusing a child. Based on the Diocese's wrongful conduct, a reasonable person could and would conclude that it knowingly and recklessly disregarded the abuse of children and chose to protect its reputation and wealth over those who deserved protection. The result is not surprising: for decades hundreds, if not thousands, of children were

sexually abused by Catholic clergy and others who served the Diocese. The plaintiff in this lawsuit is one of many children who was sexually abused because of the Diocese's wrongful conduct.

II. PROCEEDING IN ACCORDANCE WITH CPLR 214-G AND 22 NYCRR 202.72

3. This complaint is filed pursuant to the Child Victims Act (CVA) 2019 Sess. Law News of N.Y. Ch. 11 (S. 2440), CPLR 214-G, and 22 NYCRR 202.72. The CVA opened a historic one-year one-time window for victims and survivors of childhood sexual abuse in the State of New York to pursue lapsed claims. Prior to the passage of the CVA, plaintiff's claims were time-barred the day he turned 22 years old. The enactment of the CVA allows victims and survivors of childhood sexual abuse, for the first time in their lives, to pursue restorative justice in New York State.

III. PARTIES

4. Plaintiff Albert Rinow is an adult male who currently resides in Lancaster, New York.

5. Upon information and belief, the Diocese is currently a not-for-profit religious corporation organized under New York law with its principal office in Buffalo, New York.

6. Upon information and belief, at all relevant times the Diocese conducted business as the "Diocese of Buffalo" or the "Buffalo Diocese."

7. Upon information and belief, at all relevant times the Diocese employed priests and others who served various Catholic institutions and families, including plaintiff Albert Rinow and his family.

8. Upon information and belief, Father Donald Becker ("Father Becker") was a priest employed by the Diocese to serve Catholic families, including plaintiff Albert Rinow and his family. During the time Father Becker was employed by the Diocese, he used his position as a priest to groom and to sexually abuse plaintiff Albert Rinow.

9. To the extent that the Diocese was a different entity, corporation, or organization during the period of time during which Father Becker used his position as a priest to sexually abuse plaintiff Albert Rinow, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

10. To the extent the Diocese is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Becker used his position as a priest to sexually abuse plaintiff Albert Rinow, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

11. All such Diocese-related entities, corporations, or organizations are collectively referred to herein as the “Diocese.”

12. Upon information and belief, at all relevant times defendant St. Mary’s Catholic Church and School (“St. Mary’s”) was a not-for-profit religious corporation organized under New York law and wholly owned, operated, and controlled by the Diocese.

13. Upon information and belief, St. Mary’s is currently a not-for-profit religious corporation organized under New York law with its principal office in Buffalo, New York.

14. Upon information and belief, at all relevant times St. Mary’s conducted business as “St. Mary’s Catholic Church and School,” “St. Mary’s Church,” “St. Mary’s School,” or “St. Mary’s.”

15. St. Mary’s is a parish with a church and school located in Buffalo, New York.

16. Upon information and belief, Father Donald Becker was a priest employed by St. Mary’s to serve Catholic families in its geographic jurisdiction, including plaintiff Albert Rinow and his family. During the time Father Donald Becker was employed by St. Mary’s, he used his position as a priest to groom and to sexually abuse plaintiff Albert Rinow.

17. To the extent that St. Mary's was a different entity, corporation, or organization during the period of time during which Father Becker used his position as a priest to sexually abuse Albert, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

18. To the extent St. Mary's is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Becker used his position as a priest to sexually abuse Albert, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

19. All such St. Mary's-related entities, corporations, or organizations are collectively referred to herein as "St. Mary's."

20. Upon information and belief, at all relevant times defendant St. Bonaventure Catholic Church ("St. Bonaventure") was a not-for-profit religious corporation organized under New York law and wholly owned, operated, and controlled by the Diocese.

21. Upon information and belief, St. Bonaventure is currently a not-for-profit religious corporation organized under New York law with its principal office in West Seneca, New York.

22. Upon information and belief, at all relevant times St. Bonaventure conducted business as "St. Bonaventure Catholic Church," "St. Bonaventure Church," or "St. Bonaventure."

23. St. Bonaventure is a parish with a church located in West Seneca, New York.

24. Upon information and belief, Father Donald Becker was a priest employed by St. Bonaventure to serve Catholic families in its geographic jurisdiction, including plaintiff Albert Rinow and his family. During the time Father Donald Becker was employed by St. Bonaventure, he used his position as a priest to groom and to sexually abuse plaintiff Albert Rinow.

25. To the extent that St. Bonaventure was a different entity, corporation, or organization during the period of time during which Father Becker used his position as a priest to sexually abuse Albert, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

26. To the extent St. Bonaventure is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Becker used his position as a priest to sexually abuse Albert, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

27. All such St. Bonaventure-related entities, corporations, or organizations are collectively referred to herein as “St. Bonaventure.”

IV. VENUE

28. Venue is proper because the Diocese is a domestic corporation authorized to transact business in New York with its principal office located in Erie County.

29. Venue is proper because St. Mary's is a domestic corporation authorized to transact business in New York with its principal office located in Lancaster, New York.

30. Venue is proper because St. Bonaventure is a domestic corporation authorized to transact business in New York with its principal office located in West Seneca, New York.

31. Venue is proper because Erie is the county in which a substantial part of the events or omissions giving rise to plaintiff's claim occurred.

32. Venue is proper because plaintiff Albert Rinow currently resides in Lancaster, New York.

V. STATEMENT OF FACTS AS TO PLAINTIFF ALBERT RINOW

33. Upon information and belief, at all relevant times the Diocese was the owner of St. Mary's and St. Bonaventure and held itself out to the public as the owner of St. Mary's and St. Bonaventure.

34. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled St. Mary's and St. Bonaventure.

35. Upon information and belief, at all relevant times the Diocese employed priests and others who served Catholic families at St. Mary's and St. Bonaventure, including plaintiff Albert Rinow and his family.

36. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled St. Mary's and St. Bonaventure, and held out to the public its agents, servants, and employees as those who managed, maintained, operated, and controlled St. Mary's and St. Bonaventure.

37. Upon information and belief, at all relevant times the Diocese was responsible for the hiring and staffing, and did the hiring and staffing, at St. Mary's and St. Bonaventure.

38. Upon information and belief, at all relevant times the Diocese was responsible for and did the recruitment and staffing of volunteers at St. Mary's and St. Bonaventure.

39. Upon information and belief, at all relevant times the Diocese materially benefited from the operation of St. Mary's and St. Bonaventure, including the services of Father Becker and the services of those who managed and supervised Father Becker.

40. Upon information and belief, at all relevant times St. Mary's owned a parish, church, and school.

41. Upon information and belief, at all relevant times St. Mary's held itself out to the public as the owner of St. Mary's.

42. Upon information and belief, at all relevant times St. Mary's employed priests and others who served Catholic families, including plaintiff Albert Rinow and his family.

43. Upon information and belief, at all relevant times St. Mary's, its agents, servants, and employees managed, maintained, operated, and controlled St. Mary's, and held out to the public its agents, servants and employees as those who managed, maintained, operated, and controlled St. Mary's.

44. Upon information and belief, at all relevant times St. Mary's was responsible for and did the staffing and hiring at St. Mary's.

45. Upon information and belief, at all relevant times St. Mary's was responsible for and did the recruitment and staffing of volunteers at St. Mary's.

46. Upon information and belief, at all relevant times St. Mary's materially benefitted from the operation of St. Mary's, including the services of Father Becker and the services of those who managed and supervised Father Becker.

47. Upon information and belief, at all relevant times St. Bonaventure owned a parish and church.

48. Upon information and belief, at all relevant times St. Bonaventure held itself out to the public as the owner of St. Bonaventure.

49. Upon information and belief, at all relevant times St. Bonaventure employed priests and others who served Catholic families.

50. Upon information and belief, at all relevant times St. Bonaventure, its agents, servants, and employees managed, maintained, operated, and controlled St. Bonaventure, and held out to the public its agents, servants and employees as those who managed, maintained, operated, and controlled St. Bonaventure.

51. Upon information and belief, at all relevant times St. Bonaventure was responsible for and did the staffing and hiring at St. Bonaventure.

52. Upon information and belief, at all relevant times St. Bonaventure was responsible for and did the recruitment and staffing of volunteers at St. Bonaventure.

53. Upon information and belief, at all relevant times St. Bonaventure materially benefitted from the operation of St. Bonaventure, including the services of Father Becker and the services of those who managed and supervised Father Becker.

54. Upon information and belief, at all relevant times Father Becker was a priest of the Diocese.

55. Upon information and belief, at all relevant times Father Becker was on the staff of, acted as an agent of, and served as an employee of the Diocese.

56. Upon information and belief, at all relevant times Father Becker was acting in the course and scope of his employment with the Diocese.

57. Upon information and belief, at all relevant times Father Becker was employed by the Diocese and assigned to St. Mary's.

58. Upon information and belief, at all relevant times Father Becker was a priest of St. Mary's.

59. Upon information and belief, at all relevant times Father Becker was on the staff of, was an agent of, and served as an employee of St. Mary's.

60. Upon information and belief, at all relevant times Father Becker was acting in the course and scope of his employment with St. Mary's.

61. Upon information and belief, at all relevant times Father Becker had an office on the premises of St. Mary's.

62. Upon information and belief, at all relevant times Father Becker was employed by the Diocese and assigned to St. Bonaventure.

63. Upon information and belief, at all relevant times Father Becker was a priest of St. Bonaventure.

64. Upon information and belief, at all relevant times Father Becker was on the staff of, was an agent of, and served as an employee of St. Bonaventure.

65. Upon information and belief, at all relevant times Father Becker was acting in the course and scope of his employment with St. Bonaventure.

66. Upon information and belief, at all relevant times Father Becker had an office on the premises of St. Bonaventure.

67. When plaintiff Albert Rinow was a minor, he and his parents were members of the Diocese, St. Mary's, and St. Bonaventure.

68. At all relevant times, the Diocese, St. Mary's, and St. Bonaventure, their agents, servants, and employees, held Father Becker out to the public, to Albert, and to his parents, as their agent and employee.

69. At all relevant times, the Diocese, St. Mary's, and St. Bonaventure, their agents, servants, and employees, held Father Becker out to the public, to Albert, and to his parents, as having been vetted, screened, and approved by those defendants.

70. At all relevant times, Albert and his parents reasonably relied upon the acts and representations of the Diocese, St. Mary's, and St. Bonaventure, their agents, servants, and employees, and reasonably believed that Father Becker was an agent or employee of those defendants who was vetted, screened, and approved by those defendants.

71. At all relevant times, Albert and his parents trusted Father Becker because the Diocese, St. Mary's, and St. Bonaventure held him out as someone who was safe and could be trusted with the supervision, care, custody, and control of Albert.

72. At all relevant times, Albert and his parents believed that the Diocese, St. Mary's, and St. Bonaventure would exercise such care as would a parent of ordinary prudence in comparable circumstances when those defendants assumed supervision, care, custody, and control of Albert.

73. When Albert was a minor, Father Becker sexually abused him.

74. Albert was sexually abused by Father Becker when Albert was approximately 13 to 14 years old.

75. Based on the representations of the Diocese, St. Mary's, and St. Bonaventure that Father Becker was safe and trustworthy, Albert and his parents allowed Albert to be under the supervision of, and in the care, custody, and control of, the Diocese, St. Mary's, and St. Bonaventure, including during the times when Albert was sexually abused by Father Becker.

76. Based on the representations of the Diocese, St. Mary's, and St. Bonaventure that Father Becker was safe and trustworthy, Albert and his parents allowed Albert to be under the supervision of, and in the care, custody, and control of, Father Becker, including during the times when Albert was sexually abused by Father Becker.

77. Neither Albert nor his parents would have allowed him to be under the supervision of, or in the care, custody, or control of, the Diocese, St. Mary's, St. Bonaventure, or Father Becker if the Diocese, St. Mary's, or St. Bonaventure had disclosed to Albert or his parents that Father Becker was not safe and was not trustworthy, and that he in fact posed a danger to Albert in that Father Becker was likely to sexually abuse Albert.

78. No parent of ordinary prudence in comparable circumstances would have allowed Albert to be under the supervision of, or in the care, custody, or control of, the Diocese, St. Mary's, St. Bonaventure, or Father Becker if the Diocese, St. Mary's, or St. Bonaventure had disclosed to Albert or his parents that Father Becker was not safe and was not trustworthy, and that he in fact posed a danger to Albert in that Father Becker was likely to sexually abuse him.

79. From approximately 1970 through 1972, Father Becker exploited the trust and authority vested in him by defendants by grooming Albert to gain his trust and to obtain control over him as part of Father Becker's plan to sexually molest and abuse Albert and other children.

80. Father Becker used his position of trust and authority as a priest of the Diocese, of St. Mary's, and of St. Bonaventure to groom Albert and to sexually abuse him multiple times, including when Albert was under the supervision of, and in the care, custody, or control of, the Diocese, St. Mary's, St. Bonaventure, and Father Becker.

81. At certain times, the sexual abuse of Albert by Father Becker occurred at St. Bonaventure, including in the church rectory.

82. Upon information and belief, prior to the times mentioned herein, Father Becker was a known sexual abuser of children.

83. Upon information and belief, at all relevant times defendants, their agents, servants, and employees, knew or should have known that Father Becker was a known sexual abuser of children.

84. Upon information and belief, at all relevant times it was reasonably foreseeable to defendants, their agents, servants, and employees that Father Becker's sexual abuse of children would likely result in injury to others, including the sexual abuse of Albert and other children by Father Becker.

85. Upon information and belief, at certain times between 1970 and 1972, defendants, their agents, servants, and employees knew or should have known that Father Becker was sexually abusing Albert and other children at St. Bonaventure.

86. Upon information and belief, defendants, their agents, servants, and employees knew or should have known that the sexual abuse by Father Becker of Albert was ongoing.

87. Upon information and belief, the Diocese, St. Mary's, and St. Bonaventure, their agents, servants, and employees, knew or should have known before and during Father Becker's sexual abuse of Albert that priests and other persons serving the Diocese, St. Mary's, and St. Bonaventure had used their positions with those defendants to groom and to sexually abuse children.

88. Upon information and belief, the Diocese, St. Mary's, and St. Bonaventure, their agents, servants, and employees, knew or should have known before and during Father Becker's sexual abuse of Albert that such priests and other persons could not be "cured" through treatment or counseling.

89. Upon information and belief, the Diocese, St. Mary's, and St. Bonaventure, their agents, servants, and employees, concealed the sexual abuse of children by Father Becker in order to conceal their own bad acts in failing to protect children from him, to protect their reputation, and to prevent victims of such sexual abuse by him from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that Father Becker would continue to molest children.

90. Upon information and belief, the Diocese, St. Mary's, and St. Bonaventure, their agents, servants, and employees, consciously and recklessly disregarded their knowledge that

Father Becker would use his position with the defendants to sexually abuse children, including Albert.

91. Upon information and belief, the Diocese, St. Mary's, and St. Bonaventure, their agents, servants, and employees, disregarded their knowledge that Father Becker would use his position with them to sexually abuse children, including Albert.

92. Upon information and belief, the Diocese, St. Mary's, and St. Bonaventure, their agents, servants, and employees, acted in concert with each other or with Father Becker to conceal the danger that Father Becker posed to children, including Albert, so that Father Becker could continue serving them despite their knowledge of that danger.

93. Upon information and belief, the Diocese, St. Mary's, and St. Bonaventure, their agents, servants, and employees, knew that their negligent, reckless, and outrageous conduct would inflict severe emotional and psychological distress, as well as personal physical injury, on others, including Albert, and he did in fact suffer severe emotional and psychological distress and personal physical injury as a result of their wrongful conduct.

94. Upon information and belief, the Diocese, St. Mary's, and St. Bonaventure, their agents, servants, and employees, concealed the sexual abuse of children by priests and others in order to conceal their own bad acts in failing to protect children from being abused, to protect their reputation, and to prevent victims of such sexual abuse from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that those priests and other persons would continue to molest children.

95. By reason of the wrongful acts of the Diocese, St. Mary's, and St. Bonaventure as detailed herein, Albert sustained physical and psychological injuries, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression,

anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and Albert has and/or will become obligated to expend sums of money for treatment.

VI. CAUSES OF ACTION AS TO PLAINTIFF ALBERT RINOW

A. FIRST CAUSE OF ACTION – NEGLIGENCE

96. Plaintiff Albert Rinow repeats and re-alleges all of his allegations above and below.

97. The Diocese, St. Mary's, and St. Bonaventure had a duty to take reasonable steps to protect plaintiff Albert Rinow, a child, from foreseeable harm when he was under their supervision and in their care, custody, and control.

98. The Diocese, St. Mary's, and St. Bonaventure also had a duty to take reasonable steps to prevent Father Becker from using the tasks, premises, and instrumentalities of his position with the defendants to target, groom, and sexually abuse children, including Albert.

99. The Diocese, St. Mary's, and St. Bonaventure were supervising Albert, and had care, custody, and control of Albert, when he was a parishioner and student, when he was with Father Becker, and at other times, during which time those defendants had a duty to take reasonable steps to protect him.

100. These circumstances created a special relationship between the Diocese and Albert, and between St. Mary's and Albert, which imposed on each of those defendants a duty to exercise the degree of care of a parent of ordinary prudence in comparable circumstances.

101. The Diocese, St. Mary's, and St. Bonaventure breached each of the foregoing duties by failing to exercise reasonable care to prevent Father Becker from harming Albert, including sexually abusing him.

102. In breaching their duties, including hiring, retaining, and failing to supervise Father Becker, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn Albert, his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for Albert and other children who were under their supervision and in their care, custody, and control, the Diocese, St. Mary's, and St. Bonaventure created a risk that Albert would be sexually abused by Father Becker. The Diocese, St. Mary's, and St. Bonaventure through their actions and inactions created an environment that placed Albert in danger of unreasonable risks of harm under the circumstances.

103. In breaching their duties, including hiring, retaining, and failing to supervise Father Becker, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn Albert, his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for Albert and other children who were under their supervision and in their care, custody, and control, the Diocese, St. Mary's, and St. Bonaventure acted willfully and with conscious disregard for the need to protect Albert. The Diocese, St. Mary's, and St. Bonaventure through their actions and inactions created an environment that placed Albert in danger of unreasonable risks of harm under the circumstances.

104. It was reasonably foreseeable that defendants' breach of these duties of care would result in the sexual abuse of Albert.

105. As a direct and proximate result of the acts and omissions of the Diocese, St. Mary's, and St. Bonaventure, Father Becker groomed and sexually abused Albert, which has caused Albert to suffer general and special damages as more fully described herein.

B. SECOND CAUSE OF ACTION – OUTRAGE AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

106. Plaintiff Albert Rinow repeats and re-alleges all of his allegations above and below.

107. The Diocese, St. Mary's, and St. Bonaventure engaged in reckless, extreme, and outrageous conduct by providing Father Becker with access to children, including plaintiff Albert, despite knowing that he would likely use his position to groom and to sexually abuse them, including Albert. Their misconduct was so shocking and outrageous that it exceeds the reasonable bounds of decency as measured by what the average member of the community would tolerate and demonstrates an utter disregard by them of the consequences that would follow.

108. As a result of this reckless, extreme, and outrageous conduct, Father Becker gained access to Albert and sexually abused him.

109. The Diocese, St. Mary's, and St. Bonaventure knew that this reckless, extreme, and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and Albert did in fact suffer severe emotional and psychological distress and personal physical injury as a result, including severe mental anguish, humiliation and emotional and physical distress.

VII. CPLR 1603 – NO APPORTIONMENT OF LIABILITY

110. Pursuant to CPLR 1603, the foregoing causes of action are exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(2), CPLR 1602(5), 1602(7) and 1602(11), thus precluding defendants from limiting their liability by apportioning some portion of liability to any joint tortfeasor.

VIII. PRAYER FOR RELIEF

111. Plaintiff Albert Rinow demands judgment against the defendants named in his causes of action, together with compensatory and punitive damages to be determined at trial, and

the interest, cost and disbursements pursuant to his causes of action, and such other and further relief as the Court deems just and proper.

112. Plaintiff Albert Rinow specifically reserves the right to pursue additional causes of action, other than those outlined above, that are supported by the facts pleaded or that may be supported by other facts learned in discovery.

Dated: November 6, 2019

Respectfully Yours,

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